

CITY OF ROSENBERG

REGULAR COUNCIL MEETING MINUTES

On this the 20th day of May, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Christine Krahn	Acting City Secretary
John Maresh	Assistant City Manager for Public Services
Jeff Trinker	Executive Director of Support Services
Lora Lenzsich	City Attorney
Joyce Vasut	Executive Director of Administrative Services
Charles Kalkomey	City Engineer
Dallis Warren	Police Chief
Tracie Dunn	Assistant Police Chief
Wade Goates	Fire Chief
Darren McCarthy	Parks and Recreation Director
Travis Tanner	Executive Director of Community Development
Randall Malik	Economic Development Director
Angela Fritz	Communications Director
James Lewis	Information Services Manager
Kaye Supak	Executive Assistant

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Reverend Dave Hodges, Grace Community Bible Church, Rosenberg gave the invocation.

David Langford of Scout Troop 1000 and Mudi Ali of Scout Troop 797 led the pledge of allegiance to the flag.

PRESENTATION OF PROCLAMATION PROCLAIMING MAY 21, 2014, AS SPECIAL OLYMPICS DAY IN THE CITY OF ROSENBERG.

Mayor Morales presented a Proclamation to Police Chief Dallis Warren Proclaiming May 21, 2014, as Special Olympics Day to Police Officers participating in the Special Olympics Law Enforcement Torch Run. The following Police Officers were recognized for their participation:

- o Sergeant Billy Hammick
- o Anthony Schnacky
- o John Thetford
- o Dustin Stroud

PRESENTATION OF PROCLAMATION PROCLAIMING THE MONTH OF MAY 2014 AS OLDER AMERICANS MONTH IN THE CITY OF ROSENBERG.

Mayor Morales presented a Proclamation Proclaiming the Month of May as Older Americans Month in the City of Rosenberg to Manuela Arroyos, Fort Bend Seniors Meals on Wheels, Ray Aguilar and Eric Robinson.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON SPECIAL MEETING MINUTES FOR APRIL 22, 2014, AND WORKSHOP MEETING MINUTES FOR APRIL 22, 2014.

B. CONSIDERATION OF AND ACTION ON A FINAL PLAT OF WALSH ROAD INDUSTRIAL PARK, A SUBDIVISION OF 24.259 ACRES OF LAND OVERALL BEING A PARTIAL REPLAT OF RESERVE "C" (CALL 14.2272 ACRES – TRACT I; FORT BEND COUNTY CLERK'S FILE NO. 2013125509) AND A PARTIAL REPLAT OF RESERVE "D" (CALL 7.9822 ACRES – TRACT II & CALL 2.0025 ACRES – TRACT III; FORT BEND COUNTY CLERK'S FILE NO. 2013125509) OF FIFTY-NINE SOUTH INDUSTRIAL PARK SUBDIVISION (VOLUME 27, PAGE 11; PLAT RECORDS OF FORT BEND COUNTY, TEXAS) BEING IN THE HENRY SCOTT SURVEY, ABSTRACT NO. 83, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS; 0 LOTS, 20 RESERVES, 3 BLOCKS.

Executive Summary: The Final Plat of Walsh Road Industrial Park is a proposed subdivision consisting of approximately 24.26 acres and twenty (20) reserves. It is located immediately north of the intersection of Walsh and Klauke Roads. The proposed reserves are an average of one (1) acre in size. Proposed Reserves "A" and "M" restricted to drainage use for detention purposes were included in the agenda packet.

From a development standpoint, the proposed deed restrictions for the subdivision generally limit the property to office, warehouse, distribution and light manufacturing use. The restrictions also provide for the association to maintain common areas such as the detention pond. The restrictions shall be recorded prior to filing of the Plat and Note No. 21 on the Plat will be completed. It is also important to note that the West Fort Bend Management District (WFBMD) bisects the property being replatted and encompasses six (6) of the proposed reserves or building sites, and a portion of two (2) others. The WFBMD's standards will play a role in the future development of those sites.

The proposed Plat also constitutes a partial replat of Fifty-Nine South Industrial Park, originally platted in 1981. That being said, a public hearing was held when the Preliminary Plat came before the Planning Commission on December 18, 2013. The Preliminary Plat was approved by the Planning Commission. City staff has reviewed the proposed Final Plat and has found it not to be in conflict with any regulations. The Planning Commission recommended approval of the Final Plat on April 23, 2014, and staff recommends approval of the Final Plat of Walsh Road Industrial Park.

C. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1784, A RESOLUTION APPROVING THE FORT BEND COUNTY EMERGENCY MANAGEMENT PLAN AND AUTHORIZING THE CITY'S PARTICIPATION IN THE PLAN.

Executive Summary: The Fort Bend County Office of Emergency Management updated the Emergency Management Basic Plan (Plan). The City of Rosenberg is an inter-jurisdictional City by participating in and adopting the Plan. This Plan was last updated and approved in 2010. Changes to the Plan are summarized below:

- Added some acronyms and definitions in the Explanation of Terms

- Updated the Hazard Summary table
- Updated the Volunteer & Other Services portion of Assignment of Responsibilities to reflect the local non-profits.
- Included the County Alt EOC under Emergency Facilities
- Updated some of the hazard definitions in Readiness Levels section
- Added in a paragraph on retention of emergency operations records – post incident
- Consolidated the EOP distribution list
- Updated Attachment 6: Summary of Agreements to include additional MOUs and added in expiration dates
- Updated Attachment 7: NIMS Summary

The Texas Division of Emergency Management requires that they receive the updated Basic Plan and all Annexes at least every five (5) years.

Staff recommends the approval of Resolution No. R-1784 approving and implementing the Plan.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve the Consent Agenda Items A-C. The motion carried by a unanimous vote.

REGULAR AGENDA

2. **HEAR AND DISCUSS A PRESENTATION REGARDING A PROPOSED EAGLE SCOUT PROJECT TO BUILD A BAT HABITAT FOR SEABOURNE CREEK REGIONAL SPORTS COMPLEX, AND TAKE ACTION AS NECESSARY.**

Executive Summary: On April 24, 2014, David Langford of Troop 1000 presented a proposed Eagle Scout Project (Project) to build and install bat habitat boxes to be placed in Seabourne Creek Regional Sports Complex (SCRSC) to the Parks and Recreation Board (Board). After reviewing his presentation regarding bat habitat boxes in SCRSC, the Board unanimously recommended the Project plan for approval as presented.

Staff recommends approval of the proposed Eagle Scout Project at Seabourne Creek Nature Park based upon David Langford's presentation and the recommendation of the Parks and Recreation Board.

Key discussion points:

- Darren McCarthy, Parks and Recreation Director gave an overview of the item and introduced David Langford of Scout Troop 1000.
- David Langford presented the proposed Eagle Scout Project for Seabourne Creek Regional Sports Complex.
- Council thanked him for the project and his interest in Seabourne Creek Regional Sports Complex.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve the proposed Eagle Scout Project to build a bat habitat for Seabourne Creek Regional Sports Complex. The motion carried by a unanimous vote.

3. **HEAR AND DISCUSS A PRESENTATION REGARDING A PROPOSED EAGLE SCOUT PROJECT TO RESTORE BLEACHERS FOR SUNSET PARK, AND TAKE ACTION AS NECESSARY.**

Executive Summary: On April 24, 2014, Muid Ali of Troop 797 presented a proposed Eagle Scout Project (Project) to be placed in Sunset Park to the Parks and Recreation Board (Board). After reviewing his presentation regarding the proposal to restore bleachers, the Board unanimously recommended the Project plan for approval as presented.

Staff recommends approval of the proposed Eagle Scout Project at Brazos Park based upon Muid Ali's presentation and the recommendation of the Parks and Recreation Board.

Key discussion points:

- Muid Ali of Scout Troop 797 presented a proposed Eagle Scout Project for Sunset Park.
- Council thanked Muid Ali for the proposed project and his interest in Sunset Park as the bleachers need repair.

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to approve a proposed Eagle Scout Project to restore bleachers for Sunset Park. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1795, A RESOLUTION AUTHORIZING THE TERMINATION OF THE GENERAL SERVICES CONTRACT FOR GROUNDS MAINTENANCE SERVICES BY AND BETWEEN THE CITY AND ORIGINAL DKC ENTERPRISES, LLC; AND, AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, ANY AND/OR ALL NECESSARY DOCUMENTATION REGARDING SAME.**

Executive Summary: On Tuesday, April 01, 2014, City Council approved Resolution No. R-1746 awarding Bid Number 2014-02 for Grounds Maintenance Services to Original DKC Enterprises, LLC (DKC), for a one (1) year term effective April 09, 2014, though April 10, 2015. The services included mowing at the following City locations: Rosenberg City Hall, Rosenberg Police Department, Rosenberg Civic Center, Rosenberg Fire Department Administration Building, Rosenberg Fire Departments No. 1, No. 2 and No. 3, the Rosenberg Cemetery, Water Plants, and Lift Stations.

On May 10, 2014, staff received email correspondence from Donna Caldwell of DKC notifying the City that the company was choosing to terminate the existing Contract due to their inability to meet the City's performance standards. The General Services Contract (Contract) includes a provision located in *Section II. Standard Contractual Provisions, C. Termination Provisions (2)* that states, "Either Party to this Contract may terminate this Contract as provided in this paragraph if the other part fails to comply with its term." In order to proceed with the selection of an alternate bidder, staff recommends the termination of the existing Contract. In a subsequent Agenda item, staff will be seeking City Council's direction on the selection of another vendor to provide these services.

Staff recommends approval of Resolution No. R-1795, a Resolution authorizing the termination of the General Services Contract for Grounds Maintenance Services, by and between the City and Original DKC Enterprises, LLC; and, authorizing the City Manager to execute, for and on behalf of the City, any and/or all required documentation regarding same.

Key discussion points:

- Darren McCarthy gave an overview of the item.

Action: Councilor Bolf made a motion, seconded by Councilor Euton to approve Resolution No. R-1795, a Resolution authorizing the termination of the General Services Contract for Grounds Maintenance Services by and between the City and Original DKS Enterprises, LLC; and, authorizing the City Manager to execute, for and on behalf of the City, any and/or all necessary documentation regarding same. The motion carried by unanimous vote.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1790, A RESOLUTION AWARDBID NO. 2014-02 FOR GROUNDS MAINTENANCE SERVICES; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, A GENERAL SERVICES CONTRACT RELATED THERETO AND ALL NECESSARY DOCUMENTATION REGARDING SAME.**

Executive Summary: On Tuesday, April 01, 2014, City Council awarded Bid No. 2014-02 to Original DKC Enterprises, LLC, for Grounds Maintenance Services to include mowing at the following City locations: Rosenberg City Hall, Rosenberg Police Department, Rosenberg Civic Center, Rosenberg Fire Department Administration Building, Rosenberg Fire Departments No. 1, No. 2 and No. 3, the Rosenberg Cemetery, Water Plants, and Lift Stations. As stated in the previous Agenda item, staff was informed on May 10, 2014, by Original DKC Enterprises, LLC, that they would be terminating the Contract because they could not meet the performance standards.

The bid summary form for the nine (9) responses received is attached. As stated in the invitation to bid, formal bids are valid for ninety (90) days beyond the bid opening. Staff had worked with Landscape Professionals of Texas from 2009-2012 and they performed satisfactory work. Should City Council award Bid No. 2014-02 as recommended, the proposal for Landscape Professionals of Texas will be attached to Resolution No. R-1790 as Exhibit "A".

Staff recommends approval of Resolution No. R-1790, awarding Bid No. 2014-02 for a General Services Contract for Grounds Maintenance Services to Landscape Professionals of Texas in the amount of \$64,362.00. The Contract term will be for one (1) year, effective May 21, 2014, to May 22, 2015, for all facilities.

Key discussion points:

- Darren McCarthy read the Executive Summary regarding the item.

Questions/Comments:

- Councilor Euton stated there was a lower bid and asked why staff went with bid #3 instead of bid #2.
- Darren McCarthy explained this contract was brought to Council last October because we were with the current contract holder. The #2 bidder was the current contract holder at that time. City Council approved staff to go out for bids based on the work they were performing at that time.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Resolution No. R-1790, a Resolution awarding Bid No. 2014-02 for Grounds Maintenance Services; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, a General Services Contract related thereto and all necessary documentation regarding same. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-22, AN ORDINANCE AUTHORIZING AND ORDERING THE ISSUANCE OF THE CITY OF ROSENBERG COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2014; AWARDING THE SALE THEREOF; AND CONTAINING MATTERS INCIDENT THERETO.**

Executive Summary: On April 01, 2014, City Council adopted Resolution No. R-1773 authorizing publication of Notice of Intention to issue Certificates of Obligation, in an aggregate principal amount not to exceed \$5,000,000 for the Lift Station No. 11 Replacement and FY2014 Sanitary Sewer Pipe Bursting Projects. The notice was published on April 04, 2014, and April 11, 2014, as required, with an amount not to exceed \$5,000,000.00. There has been no presentation of a petition by the citizens to call an election to approve the issuance of \$5,000,000.00 in Certificates of Obligation for improvements to the proposed projects, and to pay the costs incurred in connection with the issuance of the Certificates.

Ordinance No. 2014-22 authorizes the issuance of the Certificates and approves the results of the bidding process and sale of the Certificates. The Ordinance also sets forth the procedures for the finalization of the sale and delivery of the proceeds to the City. Joe Morrow of First Southwest Company and Marcus Deitz with Fulbright & Jaworski LLP, representing the City as Bond Counsel, will be present at the meeting to review the results of the sale with City Council.

Staff recommends approval of Ordinance No. 2014-22, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas Combination Tax and Revenue Certificates of Obligation, Series 2014; awarding the sale thereof; and containing matters incident thereto.

Key discussion points:

- Joyce Vasut, Executive Director of Administrative Services read the Executive Summary regarding the item.
- Joe Morrow of First Southwest Company reviewed the results of the sale.

Questions/Comments:

- Councilor Benton asked for examples of what the \$5 million will be used for. It will be used to replace sanitary sewer lines. Are there other items?
- Joyce Vasut stated the replacement on Lift Station No. 11.
- John Maresh stated this project will primarily focus on sanitary sewer systems, line replacements and Lift Station No. 11 located at B.F. Terry on FM 2218 and Airport Street. The \$5 million will be for the first phase. The total amount we need to replace the remainder of the collection lines and the service area for Wastewater Treatment Plant 1A is approximately \$15 million. This is just the first phase of that.
- Councilor Benton asked if the total interest for the life of this loan is \$1.8 million if we keep it for twenty years. Joyce Vasut stated yes.
- Councilor Benton asked for further explanation regarding the strengths – 11.1% year-over-year growth in taxable value.
- Joyce Vasut explained that is our taxable value within the City limits and is the City's total assessed value.

Action: Councilor Bolf made a motion, seconded by Councilor Euton to approve Ordinance No. 2014-22, an Ordinance authorizing and ordering the issuance of the City of Rosenberg Combination Tax and Revenue Certificates of Obligation, Series 2014; awarding the sale thereof; and containing matters incident thereto. The motion carried by a unanimous vote.

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1789, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN AMENDMENT TO INTERLOCAL COOPERATION AGREEMENT FOR THE COLLECTION OF TAXES, BY AND BETWEEN THE CITY AND FORT BEND COUNTY, TEXAS, FOR A PERIOD ENDING ON JUNE 30, 2015.**

Executive Summary: The City of Rosenberg has previously contracted with the Fort Bend County Tax Assessor/Collector, Patsy Schultz, for tax collection services. Fort Bend County has requested the City execute an Amendment to Interlocal Cooperation Agreement for the Collection of Taxes, to extend the existing Agreement for another year through June 30, 2015.

The Amendment extending tax collection services with Fort Bend County is attached to Resolution No. R-1789 as Exhibit "A". Staff recommends approval of Resolution No. R-1789, a Resolution authorizing the City Manager to execute an Amendment to Interlocal Cooperation Agreement for the Collection of Taxes with Fort Bend County as the City's Tax Assessor/Collector.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.

Questions/Comments:

- Councilor Benton asked what the cost is for this.
- Joyce Vasut explained we pay the County based on the parcels of land within the City limits. It is \$.35 per parcel and we pay them approximately \$5,000 each year.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Resolution No. R-1789, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Amendment to Interlocal Cooperation Agreement for the Collection of Taxes, by and between the City and Fort Bend County, Texas, for a period ending on June 30, 2015. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-23, AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE SPECIAL MUNICIPAL ELECTION HELD ON MAY 10, 2014, WITHIN THE CITY FOR THE PURPOSE OF VOTING ON AN INITIATED ORDINANCE AND RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.**

Executive Summary: As Presiding Officer of the May 10, 2014 Municipal Election, the Mayor is required to hold a canvass of the election ballots, and he and the City Council must declare the election results. The proposed Ordinance would confirm that the election on proposed propositions was held, the proper procedures were followed as mandated by law, the results have been filed with the City Council, the number of votes each proposition received, and declaration of the results.

A copy of the proposed Ordinance No. 2014-23 is included as a supporting document for City Council's approval. The electronic transmittal of the official canvass report from the Office of Elections Administration, Fort Bend County, Texas will be provided to City Council upon receipt.

Key discussion points:

- Christine Krahn, Acting City Secretary read the Executive Summary regarding Ordinance No. 2014-23.
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Questions/Comments:

- Mayor Morales commented that his position is that it still stands as a mute election and it was an unnecessary expenditure of tax payer dollars. There was available information prior to calling this election.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Ordinance No. 2014-23, an Ordinance canvassing the returns and declaring the results of the Special Municipal Election held on May 10, 2014, within the City for the purpose of voting on an initiated ordinance and resolution; and containing other provisions relating to the subject. The motion carried by a vote of 5 to

1 and 1 abstention as follows: **Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf.**
No: Councilor Grigar. Abstention: Mayor Morales.

9. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-24, AN ORDINANCE TO ADOPT AND PASS AN INITIATIVE ORDINANCE SUBMITTED TO THE QUALIFIED VOTERS ON THE MAY 10, 2014 SPECIAL ELECTION WHICH PROHIBITS THE CITY FROM DONATING SPECIFIED REAL PROPERTY FOR THE "ONE-WAY PAIRS" PROJECT.**

Executive Summary: The purpose of Ordinance No. 2014-24 is for City Council to adopt and pass an Ordinance, which reflects the results of the Special Election held, on May 10, 2014, which states: "The City of Rosenberg shall not donate to any person or entity, including TXDOT (Texas Department of Transportation), the real property owned by the City, and located in Rosenberg, Texas, between: Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One-Way Pairs" Project. The property may only be sold in the future for fair market value, as determined by independent appraisal." The Special Election was held subject to an initiative petition received by the citizens of the City of Rosenberg on December 06, 2013, pursuant to Article VII, Section 7.02 of the Rosenberg City Charter, titled Initiative.

Sec. 7.07. Adoption of ordinances states, "If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order of the city council." Therefore, this Ordinance is adopted per Section 7.07 of the Charter.

Key discussion points:

- Christine Krahn read the Executive Summary regarding Ordinance 2014-24.

Questions/Comments:

- Councilor Benton stated that the title of this Ordinance is a little misleading. He thinks it is mis-titled. The underlying spirit of the initiative was that the property not be donated.
- Councilor Pena disagreed with the Mayor on this item. This was an item that was brought to us by the citizens. They were requesting to vote on this land sale and they did not want to sell this property. We have an obligation to the citizens and it is their right to speak up and they did so. He believes that is the way this government should work.
- Mayor Morales commented that this was never a donation of the land. TxDOT always was going to pay fair market value for the land and he still stands that it was a mute election.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Ordinance No. 2014-24, an Ordinance to adopt and pass an initiative Ordinance submitted to the qualified voters on the May 10, 2014 Special Election which prohibits the City from donating specified real property for the "one-way pairs" project. The motion carried by a vote of 5 to 1 and 1 abstention as follows: **Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf. No: Councilor Grigar. Abstention: Mayor Morales.**

10. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1792, A RESOLUTION TO ADOPT AND PASS AN INITIATIVE RESOLUTION SUBMITTED TO THE QUALIFIED VOTERS ON THE MAY 10, 2014 SPECIAL ELECTION WHICH PROHIBITS THE CITY FROM DONATING SPECIFIED REAL PROPERTY FOR THE "ONE-WAY PAIRS" PROJECT.**

Executive Summary: The purpose of Resolution No. R-1792 is for City Council to adopt and pass a Resolution, which reflects the results of the Special Election held on May 10, 2014, which states: "The City of Rosenberg shall not donate to any person or entity, including TXDOT (Texas Department of Transportation), the real property owned by the City, and located in Rosenberg, Texas, between: Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One-Way Pairs" Project. The property may only be sold in the future for fair market value, as determined by independent appraisal." The Special Election was held subject to an initiative petition received by the citizens of the City of Rosenberg on December 6, 2013, pursuant to Article VII, Section 7.02 of the Rosenberg City Charter, titled Initiative.

Sec. 7.07. Adoption of ordinances states, "If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order of the city council." Therefore, this Resolution is adopted per Section 7.07 of the Charter.

Key discussion points:

- Christine Krahn read the Executive Summary regarding Resolution No. R-1792.

Questions/Comments:

- Councilor Benton stated he does not recall us receiving an offer or us agreeing to sell this property. There has been a lot of misinformation about that. He reconfirmed this with the City Manager's Office. We have not received any compensation and it was his understanding that the City was going to simply convey this property to TxDOT. He thinks we have to listen to the voters. He feels the title of the item is misleading.
- Councilor Bolf concurred with what Councilor Pena said earlier. When citizens come and ask for a right to vote she does not think it is a waste of time when citizens want to have their say.
- Mayor Morales commented in reference to Councilor Benton's comment. In 2007 the County Mobility Bond was voted on by the citizens of Rosenberg that included \$1.5 million dollars that was to go towards this project. Yes, the property was going to be conveyed for public use and that public use would be eligible to allow to waive the ten percent that the State would require. So, in place of that now, the County has taken over the agreement with TxDOT. The \$1.5 million the tax payers voted on, the ten percent match will have to come out of that \$1.5 million. Right now it is allocated up to \$500,000 from the agreement he has seen. We will not receive \$1.5 million that the voters voted on in 2007 on the County Mobility Bond. We will get fair market value for the property based on what TxDOT will go through the process of appraisal.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Resolution No. R-1792, a Resolution to adopt and pass an initiative resolution submitted to the qualified voters at the May 10, 2014 Special Election which prohibits the City from donating specified real property for the "One-Way Pairs" Project. The motion carried by a vote of 5 to 1 and 1 abstention as follows:
Yeses: *Councilors Benton, McConathy, Pena, Euton and Bolf.* **No:** *Councilor Grigar.*
Abstention: *Mayor Morales.*

11. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-25, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE III TO CHAPTER 15 THEREOF, DEFINING CERTAIN TERMS; MAKING IT UNLAWFUL FOR CERTAIN REGISTERED SEX OFFENDERS TO RESIDE WITHIN 2,500 FEET OF PREMISES WHERE CHILDREN GATHER; PROHIBITING PROPERTY OWNERS FROM RENTING REAL PROPERTY TO CERTAIN REGISTERED SEX OFFENDERS; PROVIDING EXCEPTIONS TO THE ORDINANCE; PROVIDING FOR POSTING OF SIGNS; PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Executive Summary: Currently there are minimal regulations pertaining to the residency of registered sex offenders. At the April 22nd City Council Workshop, staff presented a draft Ordinance regulating certain sexual offenders. Based on the feedback and comments from City Council, two versions of this Ordinance are being presented for consideration. Ordinance No. 2014-25 (V1) is presented with the limits on residence locations extended to 2,500 feet and also providing for signage to be required and displayed at the residences of specific offenders. Also attached is Ordinance No. 2014-25 (V2) which extends the limits on residence locations to 2,500 feet but removes the requirement for posted signage.

Staff is recommending version (V1) of Ordinance No. 2014-25, which provides for greater oversight of registered sex offenders and restriction on residence locations for these offenders and requires signage to be posted.

Key discussion points:

- *Vita Goodell, Executive Director of Fort Bend County Women's Center, 1002 Wilson Drive, Rosenberg, addressed Council, as follows:*
- She expressed how much they appreciate working with law enforcement in Rosenberg. Chief Warren is a great choice. They enjoy working with Chief Warren and Assistant Chief Dunn on helping to provide services to victims of domestic violence and sexual assault to help prevent those crimes from happening. They are very committed to that and this ordinance will help go a long way to do that.
- She asked Council when considering this ordinance and looking at all of the aspects of it to remember the victim. They serve victims of domestic violence and sexual assault and they

find the affects of sexual assault are lifelong. They have people coming to them that are still affected by sexual assault that may have happened to them in the childhood or young adult life. Their self esteem is affected and they may be suffering post traumatic stress disorders, anxiety disorders. It is a lifelong effect.

- Dallis Warren, Police Chief and Tracie Dunn, Assistant Police Chief made a presentation of the proposed Ordinance.
- Dallis Warren stated on April 22nd at the City Council Workshop the draft ordinance was presented. Based on the feedback provided to staff, we have expanded the residency restrictions up to 2,500 feet as requested. There are two versions of the ordinance, one requiring signage and one removes the signage requirement. Staff is recommending that Council approve the ordinance with the signage requirement.
- Tracie Dunn presented a Power Point with an overview of the proposed ordinance highlighting:
 - Establishing a buffer zone not to exceed 2,500 feet between premises where children commonly gather
 - Map showing where registered sex offenders presently live in Rosenberg
 - Rosenberg has a total of 59 sex offenders at this time – numbers are high due to no ordinance in the City of Rosenberg
 - Graph showing sex offenders in relation to population in 2014 in surrounding cities
 - Definitions from CCP Chapter 62
 - Habitual definitions
 - What other agencies are doing
 - Chapter 62 of Code Criminal Procedure
 - Proposed Sex Offender Ordinance
 - Sec 1 (B) Offender Residency Prohibition, Penalty and Exceptions
 - Sec 1 (C) Evidentiary Matters: Measurements
 - Sec 1 (D) Property Owners Prohibited from Renting Real Property to Sexual Offenders
 - Sec 1 (E) Affirmative Defense
 - Sec 2 – (A) Posting of Signs
 - Sec 3 Violation-Penalty

Questions/Comments:

- Councilor McConathy stated she is glad the grandfathering was reiterated and what would trigger. The trigger points for an existing offender in these two classes by ordinance is non-compliance, re-offense or moving. The fifty (50) that were identified and within the city limits could stay where they are unless they are non-complaint in one of those three categories.
- Tracie Dunn stated yes.
- Councilor McConathy stated when this was presented at the Council Workshop you were iffy on the sign but today you are recommending it. What changed between the Workshop and today?
- Tracie Dunn stated she found the weakness in her presentation and that was the victim. She did not forget them, but when she looked at it she realized she forgot the most important thing, not only to who she swore to uphold and protect, but for Council to know. Her passion is stronger for that too.
- Councilor McConathy referenced the use of signs in Bay City and asked if there were any indicators that property values dropped as a result of the signage?
- Tracie Dunn stated no. She also researched further and she did not locate anything that it was affecting them in any way.
- Councilor McConathy asked legal counsel that of these two categories are we as a City liable for displacing anybody that triggers one of the three instances to cause this ordinance to displace them?
- Lora Lenzsch, City Attorney explained that the ordinance isn't displacing. That is not the term we want to use. The ordinance is simply regulating where sex offenders can and cannot reside. The ordinance is basically consistent with Chapter 62. Chapter 62 in the Code of Criminal Procedures already setup these child safety zones. What Chapter 62 cannot do is go beyond somebody that is on probation. They can add those as terms of conditions of probation but after that is completed there is no means for a City to continue regulating that type of residency. The ordinance is already embracing what is already in the statute but now adopting it saying as long as you are registering and you are required to register, you will be subject to these provisions. There have been Attorney General opinions from the State of Texas that also embraces these ordinances saying that they are consistent with Chapter 62

and actually complement Chapter 62. Anytime these ordinances have been challenged the courts have held that these ordinances are for public safety. They don't focus on the offender, they focus on the safety of the public and found that they are constitutional and have been upheld.

- Councilor McConathy thanked Dallis Warren, Tracie Dunn and Lora Lenzsch for working together to bring this to Council. The last statistic she saw, it is shameful that three out of every five women is molested by a sex offender and oftentimes that is a family member. This is passionate for her having been affected by this and she would support this strongly.
- Councilor Benton asked how many sex offenders are in Bay City. Tracie Dunn stated there are 49 sex offenders in Bay City.
- Tracie Dunn reiterated the three basic conditions in the ordinance that would subject them to a sign and if they were habitual and a child molester. They have to be habitual, child molester, have to move, violate probation in some way which they would already be subject to whatever probation will put on them and also the fact that they were non-complaint. Or, if they are not on probation and they violate Chapter 62, which makes them non-compliant, then they are subject to our ordinance also.
- Councilor Benton asked how many people would have to put up a sign if the ordinance is passed? Tracie Dunn stated none.
- Councilor Benton stated if they are grandfathered then how could you say you are targeting those fifty if they would not have to put a sign? Tracie Dunn reiterated that her target "not target as with the ordinance" but the ordinance pertains to the group of people who out of our 59 are habitual or child molesters. Out of our 59, 50 if moved are non-complaint and would be subjected to this ordinance.
- Councilor Benton asked if the District Courts have the authority to require that somebody put a yard sign.
- Lora Lenzsch stated if it is a reasonable condition she is not aware of any specific probation where that is done. Consider that all of these individuals that are required to register it is public record. They could be found without a sign but the signage is pretty consistent with it being public records.
- Councilor Benton stated in his discussion with people, most of them did not think the sign aspect and bumper sticker was a good idea. If you live on a street or next door to one of these signs and you want to sell your home do you think you will have an opportunity to sell that home and people will be concerned. He is concerned about victims but he does not want to create more victims. He does not want to punish the whole town because of this ordinance. That is a concern and people are concerned about their quality of life. There is DPS website where people can find where sex offenders reside. He can support the other aspects of the ordinance but not the sign aspect of the ordinance.
- Dallis Warren clarified that there is no provision for bumper stickers in this ordinance. It is strictly for the signs and the signs in this ordinance is geared toward providing protection for the public and the children and greater protection to the public.
- Councilor Benton stated it is an unintended consequence. We have to answer to the voters that are property owners. They have concerns about sex offenders but they also have other aspects. While he can support the other aspects he would prefer that we not do the sign. He commended the Police Department for keeping up with these people and if you need resources for that you will certainly get sympathy from us for that.
- Councilor Bolf thanked Tracie Dunn for clarifying the habitual and sex offenders. She does not think the signs are overreaching. As a parent of daughters if one was living down the street from her she would be glad the sign was in the yard so she would know. She thinks Ms. Goodell is correct. The offender can go on with his life and doesn't give anything a second thought. The victim does not. I know some citizens are worried about property values and it is a sad state when you put more value on that than a child's life but she understands it to a point. Right now we don't have any that would qualify unless they move or break the rules. Prayerfully, maybe this will keep some from moving here at all. That is one of the goals and hopes of these signs. She would support the ordinance with the signage.
- Councilor Grigar thanked staff for bringing this forward. He was appalled at the number of sex offenders when he looked at the DPS website ten or more years ago.
- He has reservations about the signage. If someone across the street has a sign he does not want to continually be reminded about it every time he walks out of his home. He is also concerned about his property value. He has reservations about it but will go along with the majority of Council if that is what they wish. He thinks it will bring down some property values somewhat, probably not drastically. He referenced the three color map and pointed out that the signage is in the tan area within the City limits, right? Some of these subdivisions are nice

subdivisions and he'd hate for a sign to be placed across the street from someone. He has real reservations about it.

- Councilor Pena stated he feels like Councilor Grigar and he talked to a lot of people about it. He feels comfortable with Chief Dunn's assessment on this. She did some soul searching and found that was probably the best way to approach this. They are starting with a clean slate and obviously breaking the regulations set forth will be a problem for them. It will be a problem for the neighbors after that happens. Most of the time it appears these people tend to live with relatives. We understand it is a terribly offense and is something that never goes away. We have heard of someone having an offense with a younger person and then later married them. Does that follow them?
- Dallis Warren stated this ordinance would not affect that at all. It only affects those habitual offenders and child sex offenders. That is the only two categories it applies to.
- Councilor Pena stated he has to go along with staff's recommendation.
- Councilor Euton stated she has a different concern. She was on the Grand Jury and 99% of the cases they heard on sex offenders they deserved what they got, she believes. There were a few cases where a young man was seduced, lured by an under aged girl and he would be classified as a sex offender if he got convicted. Most of the girls involved in these cases were not bringing the suit, it was the parents that brought the suit. She does not want to put a sign in someone's yard that was mislabeled. The system tries to work but there are times it doesn't. That is her main concern, for someone who messed up once and could possibly be rehabilitated that the sign would deter them from rehabilitation. How would this ordinance affect them?
- Tracie Dunn stated it would not affect those. We have several out of the 59 that had that type of scenario. They are not subject to this ordinance. They are not deemed child predators and not deemed habitual. The statute does allow a defense for that with four years. We have to file it because it is an offense, but most of the time those cases are given a short probationary period. In years past, they would get prison time, but the legislature looked at it and identified it and they have worked to correct that issue. Out of our 59, approximately nine of those has something similar to that. Those would not be subject to it.
- Councilor Euton stated she does not have an objection for the habitual offender. They have proven they are not trust worthy. A sign in that case may be warranted. She likes to think there is always hope for a chance of rehabilitation. She does not know if that is relevant or not.
- Tracie Dunn stated statistically it is not. They are one of the few populations that science has tried to figure out. They have tried numerous ways regarding behavior control. Nothing is long term—this is one of the reasons she feels that Chapter 62 fails in some way. Every year lobbyists try to get Chapter 62 to do better but it doesn't. That is why she feels like this is very important and the signage is a reminder for us not to forget. You can look at the DPS website but people forget about it. She feels signage is another means to remind them to stay in check.
- Councilor Bolf added, she knows Councilor Grigar's concerns. But it also keeps the neighbors on a lookout. If they see children coming in and out of this home, what is going on there. It keeps a reminder for the whole neighborhood. It can be a good reminder.
- Mayor Morales stated the way he views it is that it is not affecting the fifty-nine we have today living in our community. This is going to affect those thinking about moving to our community or these fifty-nine if they have another offense. The way he views it is that this will improve the image of our City and in his opinion it will increase property values if we can reduce the number of sex offenders moving into our community. He does not see it penalizing those that live among us today and are doing the right thing by the law. He sees it as a tool for us to control those coming into our city so that we don't go to 120 and end up with more than we have today.
- Councilor Grigar referenced Page 4 – Item 4 – it talks about the City will maintain a map depicting the prohibited areas. The said map will be available at the Police Department. He would like it to be at City Hall for the public to view. At the bottom of the same page regarding the premises – video arcade facility – what is that? He is upset that recreational facilities are not in here as far as Homeowner's Associations because that is a gathering place also. He understands it is private.
- Dallis Warren stated that can be amended to include City Hall.
- Lora Lenzsch explained that the Homeowner's Association is a private entity and they have their own deed restrictions. They could have a provision like that, but we can't regulate it.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to adopt Ordinance

No. 2014-25, an Ordinance amending the Code of Ordinances by adding a new Article III to Chapter 15 thereof, defining certain terms; making it unlawful for certain registered sex offenders to reside within 2,500 feet of premises where children gather; prohibiting property owners from renting real property to certain registered sex offenders; providing exceptions to the ordinance; providing penalties for violations of the ordinance; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; providing a severability clause; and providing an effective date with the amendment that maps will be available at City Hall in the City Secretary's office for public viewing. The motion carried by a vote of 4 to 3 as follows: **Yeses: Councilors Benton, McConathy, Euton and Grigar. Noes: Mayor Morales and Councilors Pena and Bolf.**

Further comments:

- Lora Lenzsch stated because there was not an affirmative vote of five (5), this ordinance will be coming back to Council for a second reading.

12. **ANNOUNCEMENTS.**

- Remember our current soldiers on the front line as well as our Veteran's on Memorial Day
- The American Legion will have a Memorial Day Ceremony at the Court House
- The Danny Dietz Memorial Roping Weekend will be held at the Fort Bend County Fairgrounds on Friday, Saturday and Sunday. There will be a rodeo, roping, barbeque cook-off and a car show. This is a family oriented event.

13. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 8:49 p.m.


Christine Krahn, Acting City Secretary